Previous references.

B-60-97-98-SS 142-B Mysore
B-43-08-SS 1-4-B Mysore 1910-11

(Banking)

Later references.

File No. 13-10

Serial Nos. 1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for November 1910.

SUBJECT.

States that Govt has no right to execute the civil court decrees obtained against some members of the Saltan Agricultural Bank, Mandya Dy.

From the Inspector of Agricultural Banks. No 120 A-B17 d. 30.7.10. Submits for orders letter No 4532 d. 26.5.10 from the D.C. Mysore recommending sanction to an advance of Rs 1000/- to execute certain civil court decrees against some members of the Bank

In the ~~S.G~~ Inspector of Agricultural Banks + D.C's Dy Districts. No. H. 2219-27 d. 5.11.10 States that Govt has no right to execute decrees obtained by the Bank against its debtors as a creditor + that under the circumstances the best course to ~~is~~ to adopt is to proceed to recover the amount as a revenue demand etc from the members.

G.R.S.11] 1910.

GENERAL AND REVENUE SECRETARIAT

(Banking)

NOTES.

File No. 13-10.

FILE HEADING.

Agricultural Bank at Saltur Mandya Taluk.

From

The Inspector of Agricultural Banks

No. 120 / AB 17. Dated 30.7.10 Received 1.8.10

Diary No. 500.	Enclos.	Spare Copies	Serial No.

BRIEF ABSTRACT OF LETTER.

Submits for orders letter no. 4532 dy 26.5.10 from the D.C. Mysore recommending sanction loan advanced Rs. 1000/- & execute certain civil court decrees against some members of the Bank

NOTES AND ORDERS.

The point for orders is whether, when an agricultural bank is directed to be wound up and there exist certain civil court decrees obtained against some of the indebted members the Taluk authorities should in recovering the Govt loan, proceed

NOTES—First sheet

GPB—30,000—3-4-07

G.R.S. 12]
General and Revenue Secretariat.

B File No. 13 of 1910

Serial No.

proceed to execute the Court decrees or take steps under Art 74 of the Articles of Association to collect the amount as an arrear of land revenue, as provided for in Regulation II of 1903.

The D.C. elupse holds that the judgment debts are recoverable by the execution of the decrees and suggests that an advance of Rs 100/- may be given to the Amildar of Nandya for meeting the incidental charges.

The Inspector is of opinion that the Amildar need not place himself in the position of decree holders but can proceed under Section 194 of the Land Revenue Code as prescribed in the Articles of Association.

Regulation III of 1903 refers exclusively to the recovery of the Govt loan as an arrear of land revenue, and this is also the cheaper and the easier course. The execution of a decree is a cumbrous process and involves unnecessary expenditure and loss of time. *

In para 2 of his letter the Inspector alludes to an existing practice according to which the books and other papers

Further as to the question of the costs incurred in obtaining the decree & the higher rate of interest (6% & not 5½ as in the other case) awarded by the C.C. All this can be recovered only executing the D.C. & not otherwise

NOTE—Contn. sheet.

GPB—55,000—27-1-10

G. R. S. 12]
General and Revenue Secretariat.

B · File No. 13 of 1910

Serial No.

of a Bank ordered to be wound up are surrendered to the Taluk authorities and states that this is unnecessary as according to G.O. no 7C.7410-2 -B 43-08 dt 15-5-09 an order of Govt directing the recall of the loan in no way affects the liabilities of the members among themselves. He further states that in such cases the Amildars may proceed to collect the dues as per lists maintained in his office.

Submitted for orders.

AJR 16/8 When a Bank is wound up the first Shareholding into the place can only do so as a liquidator and if there are any moneys due to them Share as a Co-Creditor. They can, as between themselves decrees against the members of the Bank, have no superior right than what the Bank itself had and they ought therefore to proceed to Execution to recover on decrees. When the Bank is existing first charge upon such provision of decreeing it as an arrear of Land Revenue applies but not after it is wound up and when the body is subject to the operation of that right no longer exists.

To Branch III for favour of opinion on the legal points involved in the case.

18/10

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G.R.S. 12]
General and Revenue Secretariat.

B File No. 13 of 1900

Serial No.

The decree can now be executed by a representative of the late Bank viz its liquidator. But whether the Govt which steps in to enforce its claims after the winding up of the Bank can be said to be the liquidator of the Bank in the sense in which that word is understood in the Companies' Regulation is open to doubt. There is also reason to think that the decree itself (which was obtained in July 1903) is time barred. Though there are certain advantages in enforcing the decree that are also certain disadvantages e.g. the Bank can not claim priority over other creditors in the way the Govt can. This perhaps is not of much practical importance, as generally members of the Bank will not have been permitted to alienate their properties if possible, to proceed under Reg. II of 1903, seems to be the safest as it is also the safest course to adopt.

It is suggested that the opinion

NOTE—Contn. sheet.

GPB—35,000—27-1-05

G. S. 12]
General and Revenue Secretariat.

B File No. 13 of 1910

Serial No.

after Govt Advocate may also be obtained

29/8/10 Sff

Yo Br 8

This certainly carries to recover as an arrear of Land Revenue but the question is whether when there are decrees subsisting and the Bank is wound up the procedure of recovering as an arrear of land revenue comes to the legal. If it is legal no advance as requested & the Persons necessary. May the Govt Advocate be consulted as suggested & Branch III ? Perhaps Regn II 7/1903 clinches the matter -

(Encl Secy)

29.8.10.

Yes - Please consult Govt Advocate

CBS

9/9/10

No 7615
9-10-9-10
Encl 1 letter
file of V papers
2 collections
11.0.17
Rec'd 19-9-10

Forwarded to the Govt Advocate for favour of opinion

G. G. to.

W. A. Thumbrihaseelan
for Secy

The fact that the Bank has obtained decrees -- against some of its members for the amounts borrowed by

NOTE—Contn. sheet

Serial No.

by them will not absolve such members from their joint and several liability to Government for the total amount lent by Government to the Bank. As a creditor of the Bank, the Government has no right to execute the decrees obtained by the Bank. The best and perfectly legal course under the circumstances for ~~the~~ Government to adopt is to proceed to recover the amount as a revenue demand under Regulation II of 1903 from every member of the Bank. If in this process of recovery any member of the Bank is made to pay more than his proper share of the burden, he can recover the excess from the other members either by an ordinary suit for contribution or by taking proceedings to wind up the Bank through Court.

2. The practice of taking possession of the account books and documents &c of Banks by Amildars when the Government loans are recalled, is not legal and leads to complications if the bonds and decrees become time barred and unenforceable while in the wrongful custody of Government Officers.

17. 9. 1910

S. Narayana Rao
Govt Advocate.

Submitted.

ASC 20/9

Majesty's draft agreeing with the above views declining to grant an advance.

20/9/10

21-9-10

Note—Contn. sheet

G. R. S. 12]
General and Revenue Sécretariat.

B File No. 13 of 1910

17

Serial No.

Draft Sulled
Sd
26/10
and 28/10/10
Govt Secy).

Dewan

8334
11.10.10

HB
10/10/10

Draft approved by the Dewan
HB
28/10/10

Issue
HB
29-10-10

2 To the Inspector of Rural Banks.
" Dy Commrs of Districts
No H.2219-27 § 5-11-10.

States that Govt has no right to encash Drafts obtained by the Bank against its ~~current~~ debtors ~~as~~ a creditor & that under the circumstances the best course to adopt is to proceed to recover the amount

Note—Contn. sheet.

GPB—55,0-11—27-4-09

Serial No.

as a revenue demand under Reg^{n} II of 1903 from the members. 2 observes the legality of the practice of the Th authorities in taking possession of books etc of a wound up Bank ...

GPB—50,000—12-8-10

B-13-10
8 no. 1

OFFICE OF THE REGISTRAR OF
CO-OPERATIVE SOCIETIES IN MYSORE.

No. 120/13-17 Dated Bangalore, 28th July 1910.
Subject: Revenue
From

M. Shama Rao, Esq., M. A.
Registrar of Co-operative
Societies in Mysore.

To

C. S. Balasundarum Iyer, Esq., B. A.
Offg. Secretary to the Government of H.H.the
Maharaja of Mysore, General and Revenue Depts.

Sir,

I have the honor to forward herewith a copy of the Mysore Deputy Commissioner's letter No.4532 dated 26th May 1910 applying for an advance of Rs.100/- to execute certain civil court decrees against Range Gowda and Anka Chari, two of the members of the late Satnur Agricultural Bank in the Mandya Taluk. These members obtained loans to the extent of Rs.175/- and Rs.500/- respectively from the bank when the same was in working order, but as they failed to repay their dues within the stipulated time, the agent of the Bank obtained decrees against them in the Munsiff's Court at Seringpatam in July 1903, but for some reason or other, the decrees were left unexecuted by the agent. Subsequently, the bank was directed to be wound up in Government Order No.Fl.454-5/R.F.60-97 dated the 22nd July 1904, the books and papers of the bank were taken charge of by the Amildar of the Mandya Taluk and ever since they have been in the Taluk office. Without reference to the decrees of the Civil Court, the lands of the above two defaulting members were advertised for sale by the Amildar on four different dates between February 1906 and June 1909, but for want of proper bidders, the sale had to be adjourned. In again fixing a date for fresh sale, the Amildar took notice of the Civil Court decrees and feeling some impropriety in selling the lands above referred to by means of revenue process while there was another way of selling them by application to the Civil Court, made a reference to his superior officers, with the result that the Deputy Commissioner of Mysore has now applied for

4 500

1910-1911.

From M. Shama Rao Esqr: Registrar of Co-operative Societies in Mysore

To C. S. Balasundaram Iyer Esqr: BA. Offg: Secy: to the Govt of H.H the Maharaja of Mysore Bangalore

Dated 28th July 1910

Despatched 30th July 1910

Received

General No. 120

AB No. 17.

Enclosure No. I and V. Records.

Submits for orders of Government letter no 4532 dt 26th may 1910 from the Dy: Commissioner Mysore district re the advance of Rs 100/- to execute certain Civil Court decrees against certain members of the Saligrama Agricultural Bank, together with his opinion in the matter.

GPB—70 reams—27-12-09

3

for an advance of Rs.100/- to meet the costs of the application to be made to the Civil Court, and I submit the letter for the orders of Government. My own opinion in the matter is that the Amildar need not in such cases place himself in the position of decree-holders, but under rule 74 of the Articles of Association, quoted in the margin for convenience of reference, he can proceed under section 194 of the Land Revenue Code against the defaulters as well as other members if necessary, who are jointly and severally responsible for the dues of Government.

74. "Any loan made to the Bank by Government shall be deemed to be an advance made for agricultural objects to the members of the Bank as holders of arable land, within the meaning of section 194 of the Mysore Land Revenue Code, and the same shall be recoverable from the members jointly and severally as an arrear of land revenue under the provisions of the Mysore Land Revenue Code or of any other law for the time being in force."

2. In this connection, I also beg to observe that in the past, whenever a bank was ordered to be wound up, the books and other papers of the Bank were ordered to be surrendered to the Taluk authorities and there are instances when no steps were taken by the Amildar for some years after the records reached his office, some of the debts owed to the bank by its members having thereby become time-barred for enforcement in a Civil Court. As per Govern-ment Order No.Fl.7410-21/B.43-08 dated 15th May 1907, an order of Government directing the recall of the loan has not the effect of winding up the bank and in no way effects the liabilities of the members among themselves. In these circumstances, I am of opinion that the local authorities need not demand the surrender of the re-cords of the bank, when the Government loan is ordered to be re-called. A list of the members together with the amounts due from them to the bank is always available in my office and as it is only a concession on the part of Government to receive from individual members only as much as they owe to the Bank in the first instance, enforcing joint liability only when these individual payments do not fully make up the Government dues, I think it necessary, to avoid compli-cations, for the Revenue authorities to collect the dues of Govern-

ment

4

Government on the basis of the list supplied by me, leaving it to any of the individual members who may contest the entries to settle the matter in my office. If this suggestion of mine is approved by Government, it will greatly facilitate recoveries in the future.

The file of remarkable papers is enclosed for reference and kind return.

I have the honor to be,

Sir,

Your most obedient servant,

M. Thimma Rao.

Registrar of C. S.
&
Inspector of Agrl. Banks, in Mysore.

B.N.S.

5

Letter No.4532 dated 26th May 1910 from the Deputy Commissioner, Mysore District to the The Registrar of Co-operative Societies in Mysore.

I have the honor to state that Range Gowda and Anka Chari of Goottalu village, Mandya Taluk owed Rs.175 and Rs.500 respectively to the Satnur Agricultural Bank of the same Taluk on account of the loans obtained by them. Owing to their failure to pay up their dues, the agent of the said bank sued and obtained decrees against them in the Civil Court. The Bank having since been ordered to be wound up and the services of the agent dispensed with, the Amildar enquires whether the decree amount may be recovered as Revenue arrears; if not, from what sources the cost of execution and other incidental charges (such as copying fees, process fees) are to be met and whether any portion of the instalments which may hereafter be recovered from other loan holders may be utilized for this purpose. It is also reported that no amount is available in the deposit as the recoveries on account of other loans are adjusted then and there.

As the judgment debts are recoverable by the execution of the decrees, I beg to suuggest that an advance of Rs.100 may be given to the Amildar to meet the necessary charges subject to adjustment in due course.

The vernacular papers on the subject are enclosed for reference and obliging return.

" C O P Y "

K. Ramachandra Rao.

Registrar of C. S.
&
Inspector of Agrl. Banks in Mysore.

B.N.S.

3

Clear Draft

G.R.S. 28.]

File No. 13

Serial No. 2

29-10-10

Diary No. of letter replied to 570

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

(Bangalore,

, *the* 19

Date of issue 5-11-10

Signed by W L Kirkwood

READ—

Letter No 120/AB17 &
30.7.10 from the Inspector
of Agrl Banks submitting
for orders letter No 453 &
25-6-10 from the Dy Comm
Mysore DL recommending
sanction to an
advance of Rs 100 to execute
certain civil court decrees
obtained by the Satnur
Agrl Bank in the hands
against some of its members

ORDER THEREON. No.

order thereon.

As a creditor of the Bank

over

W de 2219-27
5-11-10

SUBJECT.

GPB—5,000—7-5-09

The Govt has no right to execute the decrees obtained by the Bank against its debtors. The best & fair ~~legally legal course to~~ adopt in the circumstances for Govt to adopt is to proceed to recover the amount as a revenue demand under Regulation II of 1803 from every member of the Bank. No advance is made as regards the practice of the Taluk authorities taking over possession of the books & other papers of a Bank ordered to be wound up. Govt observe that such a course is not legal & leads to complications if the bonds & decrees become time barred & unenforceable while in the wrongful custody of Govt officers.

~~The best~~ the best course

these circumstances become

8

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

3. No advance is under these circumstances necessary & this procedure should be followed in all similar cases in future.

To be printed

Secretary

29.9.10

To the Inspectors of Opl returning enclosures. Banks.
" Dy Commrs of Dts "

28/9/10

10 Copies

Typed
Ltr
Index
BT

MGCPB—30,000—5-1-05.

Proceedings of the Government of His Highness the Maharaja of Mysore, Financial (Banking), dated 5th November 1910.

READ—

Letter No. 120—A. B. 17, dated 30th July 1910, from the Inspector of Agricultural Banks, submitting for orders letter No. 453, dated 25th June 1910, from the Deputy Commissioner, Mysore District, recommending sanction to an advance of Rs. 100 to execute certain civil court decrees obtained by the Satnur Agricultural Bank in the Mandya Taluk against some of its members.

No. Fl. 2219-27—B. 13-10-2, dated Bangalore, 5th November 1910.

Order thereon.—As a creditor of the Bank the Government has no right to execute the decrees obtained by the Bank against its debtors. In the circumstances the best course for Government to adopt is to proceed to recover the amount as a revenue demand under Regulation II of 1903 from every member of the Bank. No advance is under these circumstances necessary.

2. As regards the practice of the taluk authorities taking over possession of the books and other papers of a Bank ordered to be wound up, Government observe that such a course is not legal and leads to complications if the bonds and decrees become time-barred and unenforcible while in the wrongful custody of Government officers.

C. S. BALASUNDARAM IYER,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Inspector of Agricultural Banks, returning enclosures.
The Deputy Commissioners of Districts.

Exd.—c. v.

1910-11

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

FINANCIAL (BANKING)

PROCEEDINGS

Dated 5th November 1910

No. Fl. 2219-27
B. 13-10-2

Pointing out the irregularity of the present practice of the taluk authorities taking possession of its papers whenever an Agricultural Bank is ordered to be wound up.

GPB—21-11-10—200